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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICOH COMPANY, LTD.,) CASE NO. C-03-4669-MJJ (EMC)
Plaintiff,) CASE NO. C-03-2289-MJJ (EMC)
vs.)
AEROFLEX INCORPORATED, et al.,) RICOH'S MISCELLANEOUS
Defendants.) ADMINISTRATIVE REQUEST PURSUANT
) TO CIVIL LOCAL RULE 7-10(b) TO
) STRIKE OVERLONG OPPOSITION BRIEF
) AND TO SET BRIEFING SCHEDULE AND
) LENGTH FOR REPLY BRIEF
)
SYNOPSYS, INC.,) Date: N/A
Plaintiff,) Time: N/A
vs.) Courtroom: 11
RICOH COMPANY, LTD.,)
Defendant.) **TIME SENSITIVE MATTER**
))

1 MISCELLANEOUS ADMINISTRATIVE REQUEST

2 Plaintiff and declaratory judgment defendant Ricoh Co., Ltd. (“Ricoh”) respectfully
 3 submits this miscellaneous administrative request pursuant to Civil Local Rule 7-10(b) regarding
 4 the Markman brief filed by the ASIC Defendants and Synopsys (collectively “Synopsys”) on
 5 September 10, 2004. Synopsys’ brief contains 69 pages of argument, and includes a large
 6 amount of extrinsic evidence, which the Court has already ruled it will not consider. Also, on
 7 September 10, this Court ordered that Synopsys’ Markman brief not exceed 53 pages in length.¹
 8 On September 13, counsel for Ricoh twice spoke with counsel for Synopsys, and inquired when
 9 Synopsys would comply with the Court’s Order and file a revised brief. Ricoh’s counsel pointed
 10 out that, if Synopsys’ counsel removed the extrinsic evidence, the brief should be under 53 pages
 11 in length. (Brothers Decl. Ex. A.) Ricoh also requested that Synopsys stipulate to permit Ricoh
 12 to respond to the revised brief within seven business days from filing a corrected brief, and that
 13 Ricoh be permitted to submit a reply brief not to exceed 35 pages. (*Id.*) Counsel for Synopsys
 14 has indicated that it does not intend to refile its Markman brief (to comply with the Court’s
 15 September 10 order), and refused to stipulate that Ricoh’s response is due within seven business
 16 days, or that Ricoh’s reply not exceed 35 pages. (*Id.*)

17 Timely consideration of this motion is appropriate, so Ricoh can know to what it is
 18 responding, and know when its response is due. Ricoh requests that Synopsys be ordered to file
 19 and serve a response to this request by noon (P.D.T.) Wednesday. Ricoh waives the right of
 20 reply to any such response. Ricoh’s counsel is available for a telephone conference at the
 21 Court’s pleasure. Proposed Orders are submitted herewith with respect to the timing of hearing
 22 this request and with respect to the substance of the request.

23
 24 ¹ Ricoh’s Markman brief was 53 pages in length. Counsel for Synopsys has attempted to justify
 25 its longer brief by claiming that Ricoh’s brief used 10 point and 8 point fonts. This is not
 26 accurate. The text and footnotes of Ricoh’s brief use Microsoft Word’s standard Times New
 27 Roman 12 point font. The occasional embedded three column charts setting forth the patent
 28 claims and parties’ respective interpretations uses the same Times New Roman font, but had to
 be set at 10 points in order to fit the charts within the portrait width of the brief.

MEMORANDUM IN SUPPORT

1. This Court should strike Synopsys' September 10 brief, and direct that any subsequent Markman brief be limited to intrinsic evidence. There is no question that Synopsys' September 10 Markman brief fails to comply with this Court's September 10 order. Ricoh moves to strike Synopsys' Markman brief on that basis. *See, e.g., Swanson v. U.S. Forest Service*, 87 F. 3d 339, 345 (9th Cir. 1996) (affirming district court's striking of oversize briefs); *Broden v. Marin Humane Society*, 1997 WL 818587 (N.D. Cal. 1997) (striking all papers associated with an oversize brief); *Meinhold v. U.S. Department of Defense*, 808 F. Supp. 1453, 1454 (C.D. Cal. 1992) (striking brief in excess of page limit). Alternatively, the Court may elect to direct Ricoh to ignore the last 16 pages of Synopsys' brief. *Maxwell v. City of New York*, 272 F.Supp.2d 285, 307 (S.D.N.Y. 2003) (refusing to consider pages of brief that exceeded the court's practice rules). If the Court elects to permit Synopsys to re-file a Markman brief that complies with the September 10 order, then Ricoh requests that any such brief be limited to intrinsic evidence, since this Court has already ruled that its claim construction will be limited to such evidence.

2. Ricoh should be permitted to reply to any re-filed brief within seven business days. Currently, Ricoh's reply is due this Friday, September 20, 2004. Because Ricoh does not yet know whether it is obligated to reply to Synopsys' entire brief, or a specific portions of that brief, it should be granted seven business days measured from the ruling on this motion or from any subsequent brief, whichever is later. Additional time is also appropriate, as Rosh Hashanah begins at sundown on Wednesday, September 15, and continues through sundown Friday, September 17.

3. Ricoh should be permitted to submit a reply brief not to exceed 35 pages.

Although Ricoh intends to keep its reply brief as short as possible, Synopsys has submitted a wide variety of extrinsic evidence and occasionally has made arguments that will require a detailed response. Assuming that Synopsys eventually files a 53 page brief (28 pages over the typical length), Ricoh requests permission to file a reply not to exceed 35 pages in length (20

1 pages over the usual length).

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3 Dated: September 13, 2004

Ricoh Company, Ltd.

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